



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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Policy and Legislation Committee

Brian Baca, Chair; Erin Garner; Benjamin Licari; Kathy Lund

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Approval Date: October 14, 2010

CONFORMED MINUTES

THE POLICY AND LEGISLATION COMMITTEE (Brian Baca, Chair; Erin Garner; Benjamin Licari; Kathy Lund) OF THE STATE MINING AND GEOLOGY BOARD

Conducted a Meeting on:

Thursday, April 15, 2010

8:30 A. M.

Board of Supervisor's Hearing Room
County Government Center, Building A
330 Fair Lane
Placerville, CA 95667

Draft

AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting]

I. Call to Order (Baca)

II. Roll Call and Declaration of a Quorum

The committee meeting was called to order at 8:30 A. M. All committee members were present at the time of roll call, with Committee Member Garner absent until 8:40 A.M., and a quorum was declared.

III. Consent Items [Action]

[All the items appearing under this section will be acted upon by the committee by one motion and without discussion; however, any committee member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business]

1. Approval of Minutes, March 11, 2010, Committee Meeting.

Committee Member Lund moved to approve the minutes. Board Member Licari seconded and the motion carried with a unanimous voice vote.

IV. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing]

2. Amendment to Administrative Procedures for Submittal of Documents to the State Mining and Geology Board.

Executive Officer Testa stated that at its November 21, 2009, and March 11, 2010, meetings, revisions to the SMGB's policy for the submittal of documents for items coming before the SMGB or its Committees, was discussed. Based on those discussions, draft language was provided that captured the suggestions offered, and revised appropriately. The draft language, and possible meeting schedule based on such revisions, is before the Committee for further consideration and discussion. The Committee may consider modifying the language, whole or in part, before recommending the proposed language to the whole SMGB.

Committee Member Garner moved for continuation of a monthly calendar with the agenda being published a week following each meeting of the SMGB or its Committees. Committee Member Licari seconded and the motion carried with a unanimous voice vote.

3. Considerations Regarding Local Permitting of Mineral Resources Lands (MRZ-2). Committee Chairman Baca noted how state policy can affect the whether or not designated mineral resources can receive a local permit for mining. The State Geologist classifies mineral resources, and based on the State Geologist's recommendations, the SMGB designates these resources. For discussion is whether the SMGB or State should have a more prominent role in the local permitting of mining on designated mineral lands, and should a land owner have an intent to mine, should the SMGB or State be involved. Not being considered is the scenario where the land owner does not have an intent to mine.

- Committee Chairman Baca clarified for Member Lund with example in comparison with the affordable housing code, and that the bar for denial of a mining permit on designated mineral land of regional significance should be high.



- Committee Member Lund opposed additional State control and involvement.
- Committee Member Garner expressed the need to address the problem associated with permitting of mines on mineral lands of regional significance.
- Committee Chairman Baca would agree with Member Lund based on previous attempts are reflected in documents provided by Adam Harper on behalf of California Construction and Industrial Materials Association (CalCIMA); such attempts went too far in his opinion. Currently, no mining facility is perceived as a compatible neighbor and State law should be encouraging mining on designated lands. There are certain things a civilized society required including a landfill, hospital, police station and mines and they have to go somewhere. It is within the purview of the State or at least for the State to facilitate the permitting of those mines on designated lands where there is a voluntary action proposing a mine; and solely within this very narrow discretionary area, and that such ability would provide for more of a level playing field which does not exist currently.
- Committee Member Garner supports the concept and need.
- Committee Member Licari expressed the significance of distance between a mine and its users, and its impact.

Committee Chairman Lund moved to direct Executive Officer to develop some preliminary language for the Committee's consideration, notably in reference to PRC Sections 2762 and 2763, and provide some options for development of workshops or committee or some other venue, in pursuing this matter, and to continue this matter. Committee Member Garner seconded and the motion carried with a unanimous voice vote.

4. Considerations Regarding AB 3098.

Committee Chairman Baca stated that OMR periodically publishes a list of mines regulated under SMARA that meet provisions set forth under California's Public Resources Code, Section 2717(b). This list is generally referred to as the AB 3098 List, in reference to the 1992 legislation, that established it. Sections 10295.5 and 20676 of the Public Contract Code preclude mining operations that are not on the AB 3098 List from selling sand, gravel, aggregates, or other mined materials, to state or local agencies. Although what is required to be on the list is clearly spelled out, procedures for removal or subsequent reinstatement to the list are less clearly defined. The SMGB is considering whether it wishes, based on the information it has before it, direct this matter to the Policy and Legislation Committee for further discussion and consideration of a regulatory amendment to address due process-related concerns.

- SMGB legal counsel, Deputy Attorney General Rick Thalhammer, expressed the need for a due process incorporating basic elements for notice of action and notice to appeal, that are higher due process rights exist when a site is being removed from the list, and supports the directive for development of proposed regulatory language to address this matter.

Committee Member Licari motioned for the Executive Officer to develop proposed language for a due process for the removal and reinstatement of surface mine sites on the AB 3098 List, and work with legal counsel Thalhammer with existing language in SMARA that may be appropriate and useful. Committee Member Lund seconded and the motion carried with a unanimous voice vote.

V. New Business [Action]

No new Business was discussed.



VI. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the Committee should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman]

No Good of the Meeting information was presented or discussed.

VII. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB Committee member to receive information on or any items of continuing interest to the SMGB.]

No continued business for the committee's information was presented or discussed.

VIII. New Business [Information]

[This item is provided as an opportunity for any SMGB Committee member to bring any item of new business to the Committee's attention for further discussion and further action.]

- Committee Chairman Baca requested that 1) how local permitting impacts Mineral Resource Zones (MRZ-2) designation, and 2) overall examination of SMGB role in local permitting of mining decisions and what role the SMGB could play, be placed on the Committee's agenda for next month.

IX. Announcements of Future Meetings

The next meeting of the Policy and Legislation Committee was not scheduled.

X. Adjournment

The Committee meeting was adjourned at 9:30 A.M.

APPROVED

Brian Baca, Committee Chairman

Stephen M. Testa, Executive Officer

